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MAY 18 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARYBefore the
Federal Communications Commission

Washington, D.C. 20554

In re Applications of)

GAF BROADCASTING COMPANY, INC.,)

For Renewal of License of Station)
WNCN (FM), New York, New York)CLASS ENTERTAINMENT AND)
COMMUNICATIONS, L.P.)

THE FIDELIO GROUP, INC.,)

For a Construction Permit for a New FM Station)
on 104.3 MHz at New York, New York)

MM Docket No. 93-54

File No.
BRH-910201WLFile No.
BPH-910430MEFile No.
BPH-910502MQTo The Honorable Joseph Chachkin
Administrative Law Judge**MOTION FOR LEAVE TO FILE
MOTION OUT OF TIME**

LISTENERS' GUILD, INC. (hereinafter "Guild"), by its attorney, hereby respectfully moves for leave to file the annexed *Motion for Leave to File Consolidated Reply to Oppositions to Petition for Intervention* one day after the date upon which said *Motion* was required to be filed. The circumstances leading up to this request are as follows.

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By Order, FCC 93M-245, released May 11, 1993, the Presiding Judge granted the Guild's *Motion to Consolidate Replies and For Extension of Time*, extending until May 17, 1993 the Guild's time for filing consolidated replies to the *Oppositions* filed to its *Motion to Enlarge Issues* and to its *Petition for Intervention*. Counsel for the Guild made good faith efforts to keep informed of the Presiding Judge's actions, and was advised upon telephone inquiry to the Presiding Judge's chambers that the *Motion* had been granted. In reliance on that information, the Guild's counsel filed and served the Guild's *Consolidated Reply to Oppositions to Petition for Intervention* on May 17, 1993 (simultaneously with its *Consolidated Reply to Oppositions to Motion to Enlarge Issues*).

The Guild's counsel did not become aware until receiving a copy of the Presiding Judge's *Order* — after the *Consolidated Reply to Oppositions to Petition for Intervention* had already been filed and served — of the Presiding Judge's ruling in said *Order*, at 2 n. 1, to the effect that replies to petitions to intervention are not authorized by 47 C.F.R. § 1.294 (c) (1-4) (1992) thus requiring a separate motion for leave to file such a reply.

was filed and served on the deadline date,¹ there will be no prejudice to any party by reason of the late filing of the accompanying *Motion*.

The Guild therefore respectfully submits that good cause exists for permitting the late filing of the accompanying *Motion for Leave to File Consolidated Reply*.

Dated: May 18, 1993

Respectfully submitted,



David M. Rice
One Old Country Road
Carle Place, New York 11514
(516) 747-7979

Attorney for Listeners' Guild, Inc

1. Because the *Consolidated Reply* is in the form in which it was filed and served prior to counsel's becoming aware of the Presiding Judge's prior ruling, it recites that it is authorized by 47 C.F.R. § 1.45(c) — or, alternatively, by 47 C.F.R. § 1.294(c)(1).

CERTIFICATE OF SERVICE

I, DAVID M. RICE, hereby certify that the foregoing "MOTION FOR LEAVE TO FILE MOTION OUT OF TIME" was served this 18th day of May, 1993, by mailing a true copy thereof by United States first class mail, postage prepaid, to each of the following:

The Honorable Joseph Chachkin
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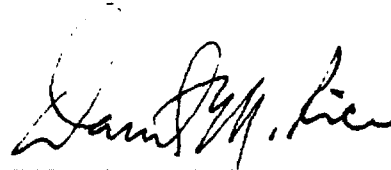
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A handwritten signature in cursive script, appearing to read "David M. Rice", is written above a horizontal line.

David M. Rice